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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

WASHINGTON, D. C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Banks, Redmond, Sunriver and Corvallis, Oregon)

MM Docket No. 96-7
RM-8732
RM-8845

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations
(The Dalles and Corvallis, Oregon)

MM Docket No. 96-12
RM-8741

In re Application of

Madgekal Broadcasting, Inc.
Station KFLY(FM), Corvallis, Oregon

File No. BPH-960206IE

For Construction Permit to Modify
Licensed Facilities (One-Step Upgrade)

To: Chief, Allocations Branch
Mass Media Bureau

REPLY

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July 22, 1998

REPLY

Madgekal Broadcasting, Inc. ("MBI"), licensee of Station KFLY(FM), Corvallis, Oregon, herein replies to the "Response to Petition for Reconsideration," filed by CBS Radio License, Inc. ("CBS") and, the "Opposition to Petition for Reconsideration" filed by LifeTalk Broadcasting Association ("LifeTalk").¹ In reply, the following is stated:

I. CBS AND MBI AGREE THEIR SETTLEMENT SHOULD BE APPROVED

Although MBI and CBS disagree on many points, they both agree that the settlement agreement submitted by MBI and CBS's predecessor in interest (American Radio Systems License Corp.) should be approved. For the reasons set forth in the "Joint Request for Approval of Agreement," the "Further Comments in Support of Joint Request for Approval of Agreement," MBI's "Petition for Reconsideration" and CBS's "Reply to Petition for Reconsideration," approval of the settlement would serve the public interest and not be contrary to the Commission's rules or precedent. Approval of the settlement would bring the dispute between CBS and MBI to a prompt and final resolution. In the absence of such approval, the matter will continue to absorb the time, energy and resources of the parties and the Commission. See Alternative Dispute Resolution Procedures, 6 FCC Rcd 5669, 5670 (1991), modified on other grounds, 7 FCC Rcd 4679 (1992); 47 C.F.R. §1.18(a). MBI joins CBS in urging that the Commission consider the unique facts of this case and conclude that approval of the settlement would serve the paramount public interest.

II. IF THE SETTLEMENT IS NOT APPROVED, MBI'S CLASS C UPGRADE SHOULD BE GRANTED

In the Report and Order in this proceeding, 13 FCC Rcd 6596 (Mass Media Bur. 1998), the Chief, Allocations Branch, chose allotment of Channel *268C3 and its reservation for noncommercial educational

¹ On July 15, 1998, MBI submitted a Consent Motion for Extension of Time in which to submit this reply.

use over grant of MBI's application to upgrade Station KFLY from Class C2 to Class C status on Channel 268. The Chief also adopted the rulemaking proposal advanced by CBS's predecessor under which Station KBBT-FM, Banks, Oregon, would be upgraded from Class C2 to Class C1 status on Channel 298 (the "Banks Proposal").²

KFLY's proposed upgrade conflicts with allotment of Channel *268C3 to The Dalles and the Banks Proposal. But, as MBI has demonstrated, Channel *268C3 should not be allotted to The Dalles. Other channels are available at that community. By allotting a frequency other than Channel *268C3 to The Dalles, the Commission would remove the conflict between The Dalles proposal and the KFLY upgrade, thus simplifying the proceeding. Only the conflict between the KFLY upgrade and the Banks Proposal would remain.

As consulting engineer Robert McClanathan demonstrated in his report (the "McClanathan Report") appended to MBI's Petition for Reconsideration, operation of a reserved band Class C3 station at The Dalles is feasible. Moreover, Channel 256C3 is also available for allotment there.³

Even though, from a technical standpoint, the Banks Proposal is not dependent on the allotment of Channel *268C3 to The Dalles, CBS vigorously resists allotment of an alternate channel to that community. By doing so, CBS implicitly acknowledges that it must garner comparative strength for the Banks Proposal by relying upon the complimentary allotment of Channel *268C3 at The Dalles. CBS wants to avoid a

² In order to accommodate the Banks Proposal, it would be necessary to substitute Channel 269C2 for Channel 298C2 at Redmond, Oregon, and to modify the license of Station KLRR, Redmond, to specify operation on that substitute frequency.

³ LifeTalk's resistance to allotment of Channel *256C3, as evidenced by its Opposition to Petition for Reconsideration, is puzzling given that LifeTalk originally petitioned to allot Channel *256C3 at The Dalles. See Notice of Proposed Rule Making in MM Docket No. 96-12, 11 FCC Rcd 1788 ¶1 n.1 (Mass Media Bur.1996) (hereafter "The Dalles NPRM"). MBI has simply demonstrated that, as LifeTalk originally indicated, Channel *256C3 could serve that community.

“one-on-one” comparison between the Banks Proposal and the KFLY upgrade. For that reason, CBS resists mightily allotment of another channel to The Dalles, notwithstanding the numerous technical and legal reasons why Channel *268C3 should not be allotted to that community.

A. The Public Interest is Served by Considering the Technical Data Presented in MBI's Reconsideration Petition

CBS and LifeTalk strenuously oppose consideration of the important facts contained in the McClanathan Report. They claim Commission procedure forbids it. CBS Response at 4-5; LifeTalk Opposition at 2. The Commission's rules, however, provide the flexibility required by just such a situation as this. Section 1.429(b)(3) states that in a rulemaking proceeding, a petition for reconsideration which relies on facts not previously presented should be granted when “[t]he Commission determines that consideration of the facts relied on is required in the public interest.” As the Commission has stated: “Section 1.429(b)(3) leaves us considerable discretion in determining which facts are relevant to our evaluation of petitions for reconsideration. We find that it is in the public interest to provide a full and accurate record in this proceeding.” The Western Union Telegraph Co., 2 FCC Rcd 2999, 3001 (1987).

This reasoning has been followed in frequency allocation rulemakings, where the Commission has found the public interest to be served by considering additional facts on reconsideration, whether or not those facts ultimately lead to a change in the rulemaking. See, e.g., Boonville, Missouri, 8 FCC Rcd 3878 n.5 (Mass Media Bur. 1993) (consideration of claim of Commission technical error warranted).

The Commission has also found that reconsideration should be granted when the additional facts considered would lead the Commission to revise an earlier decision to better serve the public interest. See, e.g., Garden City, Indiana, 6 FCC Rcd 3747 (Mass Media Bur. 1991); Mesquite, Nevada, 3 FCC Rcd 1878 (Mass Media Bur. 1988); Yosemite Valley, California, 2 FCC Rcd 1131 (Mass Media Bur. 1987). In Garden City, a licensee filed a petition for reconsideration following an action allotting an FM channel

to Garden City, Indiana. The original rulemaking proponent filed an opposition, claiming that procedure must prevent the Commission from considering factual material which could have been presented earlier.

The Commission ruled that:

[The original proponent's] procedural defense . . . must fail. Although [petitioner] should have raised its concerns during the initial allotment proceeding, Section 1.429(b)(3) of the Commission's Rules provides that petitions for reconsideration which rely on previously undisclosed facts will be granted when the Commission determines that "consideration of the facts relied on is required in the public interest." Grounds for reconsideration often are present when there exists the possibility of manifest error, or of omissions so material that their correction would result in substantial alteration of the original decision Because it now appears that the Commission based its decision on incomplete or erroneous information, and because the public interest is likely to be adversely affected by a decision so based, we will consider the issues presented by [petitioner] in its petition for reconsideration.

6 FCC Rcd at 3748, citing W.W.I.Z., Inc., Lorain, Ohio, 37 FCC 685, 686 (1964).

Notwithstanding CBS's and LifeTalk's arguments to the contrary, for any one of five reasons allotment of Channel *268C3 is contrary to the Commission's rules, precedent and the public interest.

1. A Reserved Band Frequency is Available at The Dalles

CBS, relying upon the engineering statement of Clarence M. Beverage of Communications Technologies, Inc. (the "Beverage Statement"), contests MBI's demonstration that a noncommercial educational station operating with at least minimum Class C3 facilities could be constructed to serve The Dalles. Mr. Beverage asserts that no frequency is available because of prohibited overlap to existing stations or interference with Station KOIN(TV), Channel 6, Portland, Oregon.

The attached supplement prepared by Robert McClanathan responds to the Beverage Statement. Mr. McClanathan specifically counters Mr. Beverage's assertion that Channels 213 and 215 cannot be used at The Dalles due to adjacent-channel interference. As Mr. McClanathan reports, a Channel 213C3 station may be located at a site on Stacker Butte near The Dalles. This proposed facility, while operating at a

minimum power for a Class C3 facility, would provide complete line-of-sight coverage to The Dalles and would comply with the Commission's rules for reserved band stations. Moreover, Mr. McClanathan demonstrates that a Class C3 station could be operated on Channel 215 at a hilltop site identified as "1048" on The Dalles North 7.5 minute topographic map.

2. Severe Terrain Shielding Should Preclude Allotment of Channel *268C3 to The Dalles

The McClanathan Report demonstrates that a fully-spaced station allotted to The Dalles on Channel *268C3 would not be able to overcome terrain obstructions, even if a very tall tower were constructed. See Petition for Reconsideration at p. 15 and McClanathan Report, p. 4 and Exs. 8-9. The Beverage Statement does not dispute the existence of these terrain obstructions. Rather, the Beverage Statement relies upon the non-standard Longley-Rice Propagation Method (also commonly referred to as the "Tech Note 101" method) to support CBS's assertion that The Dalles will receive a 70 dBu signal. Of course, CBS and Mr. Beverage brush aside Section 73.315(b), which states, *inter alia*: "The location of the antenna should be so chosen that line-of-sight can be obtained from the antenna over the principle city or cities to be served; in no event should there be a major obstruction in this path." Mr. Beverage states that Section 73.315(b) "is advisory in nature and not an absolute requirement." Whether or not line-of-sight coverage is an absolute requirement, the fact such coverage can be provided to the same community on a different channel, Channel 256C3, should preclude consideration of Channel 268C3.

Moreover, CBS's Longley-Rice study must be rejected for other reasons. A party proffering a Longley-Rice study must satisfy several threshold requirements. For instance, the proponent must (a) demonstrate that the terrain departs widely from the average terrain in the area under study, (b) describe the procedure used in preparing the study, including the assumptions made and methodology employed, and (c) provide sample calculations. E.g., Caldwell, College Station and Gause, Texas, 11 FCC Rcd 5326

(Mass Media Bur. 1996); Creswell, Oregon, 4 FCC Rcd 7040 (Mass Media Bur. 1989). The burden is on the proponent to establish the validity of a particular alternative propagation study. E.g., id. at 7041 (¶ 9).⁴ Here, CBS has not carried that burden.

3. Channel *256C3 Allotment At The Dalles Would Not Be Inferior To Channel *268C3

MBI, through the McClanathan Report, demonstrates that a station operating on Channel 256C3 would be able to provide a city-grade signal to The Dalles as well as Goldendale, Washington. See McClanathan Report, Ex. 11.

CBS concedes Channel 256C3 would provide line-of-sight coverage to The Dalles. Furthermore, CBS concedes that a fully-spaced station on Channel 268C3 at The Dalles would have to overcome terrain obstructions. Yet CBS vigorously asserts that Channel 268C3 is the superior channel and dismisses MBI's citation of the Commission's policy of avoiding allotment conflicts where possible as exemplifying "self centered logic." CBS seems to be arguing that unless Channel *283C3 is allotted to The Dalles, fewer communities will have new or upgraded facilities. That is not true. If Channel *256C3 is allotted to The Dalles, thereby eliminating the conflict between KFLY's Class C upgrade application, the end result will be one community will have a new service (The Dalles) and another community (either Corvallis or Banks, which is located in the Portland metropolitan area) will have the benefit of an upgraded station.

CBS argues that a station operating on Channel *268C3 would provide better coverage. Of course, CBS's calculations are based upon the assumption that the eventual permittee on Channel *268C3 will

⁴ The Beverage Study criticizes McClanathan for basing its terrain obstruction study on three-second terrain data, rather than 30-second terrain data. See Beverage Study at p. 2. Contrary to Mr. Beverage's argument, Creswell, supra, indicates in situations where terrain is critical, use of 30-second data may contribute to overstating field strength and is too coarse to model certain terrain features like an intervening butte. 4 FCC Rcd at 7041 (¶ 12). Accordingly, Mr. McClanathan's use of three-second terrain data is appropriate.

operate from a fully-spaced site, rather than from a short-spaced site by employing Section 73.215 of the Rules. Given the great uncertainty as to where the actual permittee of the proposed new noncommercial station at The Dalles will operate, the Commission's rulemaking decision should not be based upon speculation as to the precise number of persons to be served from a theoretical transmitter site. Given the circumstances, the Commission should prefer an allotment that will provide the community line-of-sight coverage from a fully-spaced site, e.g., Channels *215 or *256C3, over a terrain-obstructed allotment, Channel *268C3.

4. LifeTalk's Passing Reference to Channel 268C3 Is Insufficient To Avoid Application of the Cut-Off Rule

CBS and LifeTalk argue that even though LifeTalk did not specifically propose Channel *268C3 as an alternative allotment for The Dalles, the filing of KFLY's upgrade application did not preclude the Commission from subsequently proposing that channel. MBI disagrees.

The essential facts are these: LifeTalk's Petition for Rule Making proposed allotment of Channel *256C3 to The Dalles and its reservation for non-commercial educational use. In its rulemaking petition, LifeTalk noted that three channels -- 240C3, 268C3 and 291C3 -- remained available "for commercial operation in the area," but did not suggest or imply that LifeTalk was proposing them as alternative frequencies. The Commission's staff, in preparing its rule making notice, concluded (mistakenly as the McClanathan Report demonstrates and CBS concedes) that Channel *256C3 could not be allotted at The Dalles. The Dalles NPRM at n. 1.

It is beyond dispute that if LifeTalk's petition made no mention of Channel 268C3, consideration of that conflicting allotment proposal would have been cut-off with the filing of MBI's application. Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments, 7 FCC Rcd 4917, 4920 & n. 20 (1992), recon. granted in part on other grounds, 8 FCC Rcd 4743 (1993).

The question, therefore, is whether LifeTalk's reference in passing that Channel 268C3 was available for "commercial operation in the area" is sufficient to avoid application of the cut-off rule, Section 73.208(c)(3).

MBI urges that if the cut-off rule is to have any meaning, it should be construed to require a petitioner to explicitly propose an alternative channel in order to avoid being cut off by a subsequent modification application or rulemaking proposal. To do otherwise would undermine the purpose of the rule, *i.e.*, to give FM applicants "protection from conflicting rule making proposals at the same time they receive protection from other mutually exclusive applications." *Id.*, 7 FCC Rcd at 4919.

5. LifeTalk Still Has Failed to Provide the Affirmative Statement Called for in The Dalles NPRM

CBS and LifeTalk castigate MBI for pointing out LifeTalk's studied avoidance of providing the affirmative statement, called for in The Dalles NPRM, to build a tower at least 209 meters in height. Those criticisms are unwarranted. When a petitioner fails to make an affirmative commitment called for in a rulemaking notice, the result should be the dismissal of its rulemaking proposal.

B. KFLY's Class C Upgrade Should Be Preferred Over KBBT-FM's Class C1 Upgrade

Stated simply, if the settlement agreement proffered is not approved, a choice must be made between MBI's Class C upgrade for KFLY and CBS's Class C1 upgrade for KBBT-FM. CBS cannot rely upon The Dalles allotment to prop up its proposal, in light of the availability of an alternate channel at that community. When confronted with that choice, the public interest favors KFLY's Class C upgrade. KFLY, significantly, is one of only two commercial FM stations licensed to Corvallis, Oregon, which has a population of 46,244. Indeed, there are only two FM commercial allotments in Benton County, in which Corvallis is situated. Benton County has a population of 75,235 (1995 Census Bureau estimate). Corvallis

is the home of Oregon State University and the seat of Benton County. With its proposed Class C facilities, KFLY would be able to provide a stronger signal to all of Benton County and the surrounding area in the mid-Willamette Valley. Benton County is not part of a metropolitan statistical area and its population is more widely disbursed than the densely-populated Portland metropolitan area in which KBBT-FM is situated. Portland, as the nation's 24th largest radio market, has layer upon layer of radio service. As previously demonstrated in this proceeding, the additional area that would be served as the result of KBBT-FM's upgrade is within the primary service contour of 44 other stations.

Allowing one of the only two commercial FM stations in Benton county to maximize its power, and thereby reach a significantly larger area, would better serve the objectives of Section 307(b) of the Communications Act than would further strengthening the signal of a metropolitan market station such as KBBT-FM.⁵

III. A FINAL NOTE

In certain instances, CBS's characterization of MBI's supposed motives is unduly harsh, unwarranted and irrelevant. CBS, for instance, accuses MBI of "being unabashedly greedy" (Response at v.). It is somewhat ironic that CBS, one of the nation's largest broadcast entities with, *inter alia*, more than 160 radio stations (including five FMs in the Portland market⁶), would label MBI, the owner of exactly two broadcast stations -- KFLY and its one kilowatt AM sister station, KEJO, Corvallis -- as greedy. To

⁵ In its response, CBS compares the area and population that would be served by KBBT-FM's upgrade with the area and population that would be served by KFLY if the Class C1 upgrade application, filed May 15, 1998, were granted. Such a comparison, of course, is premature in that the Commission's staff has not acted on the KFLY Class C1 application. Moreover, even if KFLY's Class C1 application is granted, grant of its proposed Class C facility would enhance service to the mid-Willamette Valley. That would better serve the public interest than simply strengthening one of the multitude of signals serving the Portland metropolitan area.

⁶ KBBT, Banks; KINK, Portland; KKJZ, Lake Oswego; KUFO, Portland, and KUPL, Portland. BIA 1998 Yearbook, p. 275.

impugn MBI's motives and good faith is unjustified and inappropriate. Moreover, in the context of a rulemaking proceeding, the Commission has made clear it will not engage in "nebulous inquiry" into a party's motivations, "especially since the critical issues with respect to the public interest are primarily technical and demographic." Eatonton, Georgia, 6 FCC Rcd 6580, 6581 (¶ 9) (Mass Media Bur. 1991).

WHEREFORE, in light of all circumstances present, the Report and Order in the above-captioned proceeding should be RECONSIDERED and the relief requested in MBI's Petition for Reconsideration should be GRANTED.

MADGEKAL BROADCASTING, INC.

By 

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July 22, 1998

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SUPPLEMENT TO
ENGINEERING REPORT
for
MADGEKAL BROADCASTING, INC.
concerning
AVAILABILITY OF NCE AND COMMERCIAL
FM CHANNELS TO SERVE THE DALLES, OREGON

JULY 15, 1998

The NCE channel allocation data for The Dalles, Oregon presented in the Engineering Report dated May 11, 1998 included a NCE FM channel study that demonstrated that channels 201, 211, 213 and 215 have possibility for use to serve The Dalles. A subsequent report prepared by Communications Technologies, Inc. (CTI) dated June 26, 1998 stated that channels 201 and 211 could not be granted construction permits due to a conflict with protection to KOIN TV channel 6 as calculated by 47 C.F.R. Section 73.525(e) and this appears to be true only for channel 201 and 211 if operated at a maximum class C3 antenna power. Channel 211 may be used in The Dalles area at lower class A antenna powers.

However, CTI also claims that channels 213 and 215 can not be used to serve The Dalles due to adjacent-channel interference to the 60 dBu contours of channels 213 and 215 and this is not true. For most every community it is possible to select antenna locations which will, or will not, comply with the contour protection requirements of Section 73.509(a) of the Rules. The following two examples describe just one of many possible antenna sites in The Dalles area which will comply with the requirements of Section 73.509(a).

Channel 213C3 may be located at a site on Stacker Butte identified on the Stacker Butte 7.5 minute topographic map as "Radio Tower". Attached is a contour plot for channel 213C3 from this site showing the lack of any prohibited overlap between the protected and interfering contours for the proposed channel and Radio Station KBOO channel 214C1 in Portland, Oregon. This example also complies with Section 73.525(e) since only 879 persons are within the predicted interference area with KOIN TV. Granted, this is a minimum power class C3 facility but it provides complete line-of-sight propagation to all of The Dalles.

An example of a site that could be used for channel 215A is a hill top site identified as "1048" on The Dalles North 7.5 topographic map. Also attached is a contour plot for channel 215A from this site showing the lack of any prohibited

overlap between the protected and interfering contours for the proposed channel, KBOO channel 214C1 in Portland, Oregon and KYPL channel 216C2 in Yakima, Washington. This example complies with Section 73.525(e) since only 980 persons are within the predicted interference area with KOIN TV.

The above examples demonstrate that there are at least two NCE reserved channels available that can serve The Dalles area with direct line-of-sight signal propagation with antenna powers equivalent to a minimum class C3 or class A.

The whole discussion of availability of NCE channels, and their antenna powers, assume that compliance with Section 73.525(e) must be met. KOIN TV, Inc. is the licensee of both KOIN channel 6 TV and a TV translator K64KB on Stacker Butte which serves The Dalles area. Because The Dalles area is terrain shielded from direct reception of KOIN TV channel 6 from Portland, most, if not all, channel 6 program reception is by means of the K64KB translator. It is quite likely that KOIN TV, Inc. would cooperate with prospective NCE broadcasters, as permitted under Section 73.525, to permit use of antenna powers higher than those limited by Section 73.525(e).

With the consent of KOIN TV, Inc., or upon the termination of channel 6 transmission after implementation of DTV operation, numerous antenna sites could be employed. For example, channel 215 could be located at the AM radio tower site of KACI, 1300 kHz, in The Dalles with class C3 operation at 25 kW ERP and complete compliance with Section 73.509(a) with respect to KBOO 214C1, KYPL 216C2 and KRMB 215C2.

As previously demonstrated, the allocation of channel *268C3 to The Dalles is not appropriate due to the severe terrain shielding to the populated areas of the corporate city of The Dalles. Whereas, channel *256C3 is available to serve The Dalles with nearly complete line-of-sight propagation to all areas of The Dalles. The FCC wisely acknowledged the importance of line-of-sight propagation to populated areas when it included Section 73.315(a) in the Rules. Section 73.315(d) of the Rules states "In cases of questionable antenna locations it is desirable to conduct propagation tests to indicate the field strength expected in the principal city to be served and in other areas, particularly where severe shadow problems may be expected. In considering applications proposing the use of such locations, the Commission may require site tests to be made". The employment of calculations using National Bureau of Standards Technical Note 101 or Longley-Rice field calculations are not sufficiently accurate to determine the actual received VHF field strength in severely shadowed areas.

The allocation of channel *268 to The Dalles will, in most all instances, forever eliminate the use of NCE channel 215 for service to The Dalles as these channels must comply

with the 53 channel spacing requirement. The CTI report claims that channel *268C3 will serve 2057 sq. km within the 60 dBu contour as compared to 1580 sq. km for channel *256C3. This additional 30.2 percent increase in area for channel *268C3 comes at the cost of eliminating channel 215 for service to The Dalles.

It is questionable whether channel *268C3 needs to be allocated to The Dalles when existing NCE reserved channels are still available. The allocation of channel *268C3 is twice faulted by the severe shadowing to the principal city and the certain elimination of NCE channel 215 for service to The Dalles. If another NCE channel must be allocated to The Dalles within the unreserved channels it should be channel *256C3 which will have only 23 percent less service area than channel *268C3 and, more importantly, will preserve the use of channel 215 for The Dalles.

Supplement prepared by:



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July 15 1998

NCE Channel 213C3 - The Dalles, OR

Stacker Butte "RADIO TOWER" Site

45-42-50N, 121-05-59W

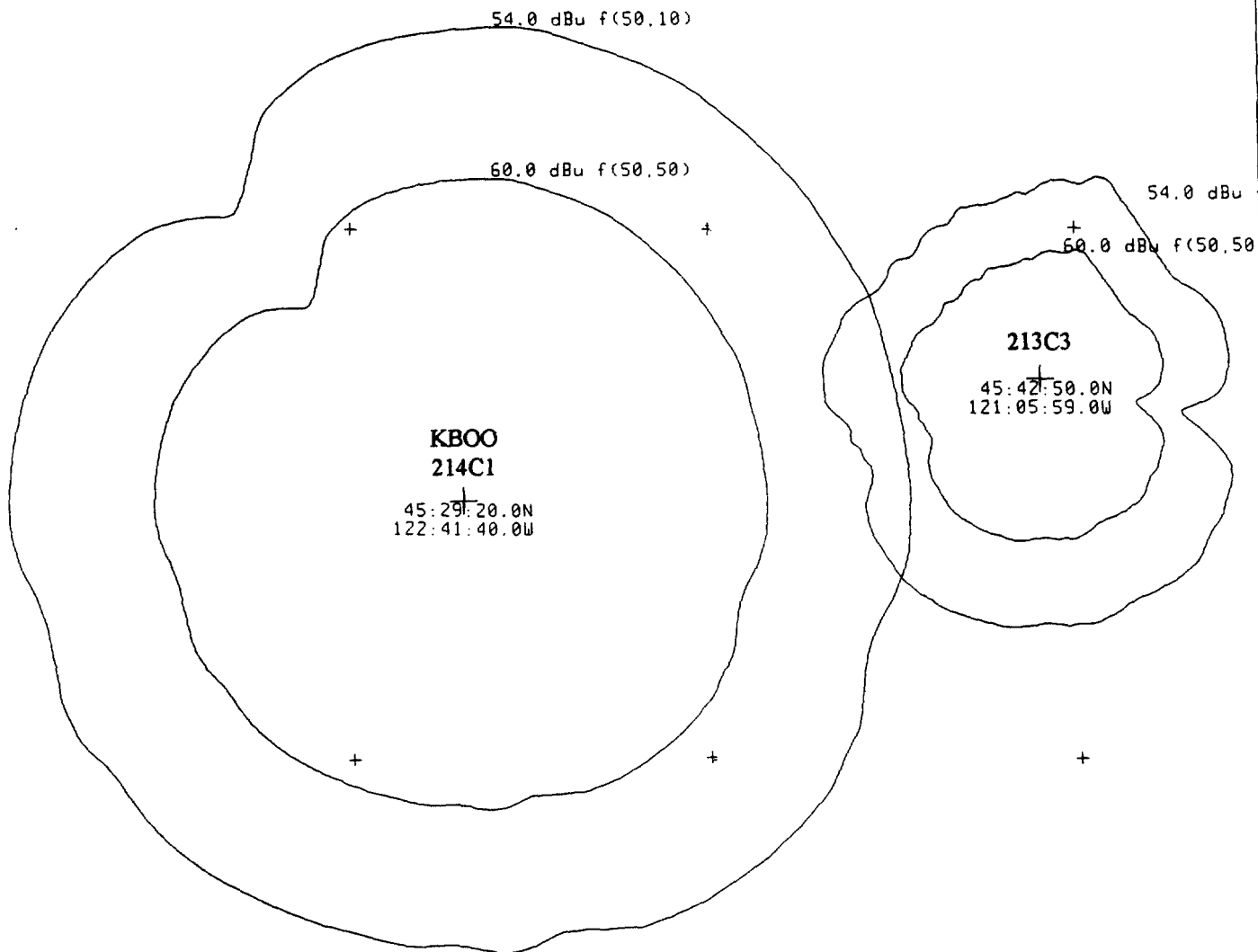
Antenna C/R 991m HAMSL

0.160 kW ERP

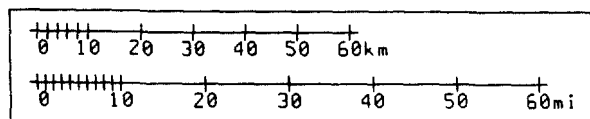
KOIN TV Channel 6 Interference

Area = 91.0 sq. km

Population = 879 Persons



Scale 1: 1447910.



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1 DEGREE CROSS-MARKS

NCE Channel 215A - The Dalles, OR

1048 ft MSL Hill Antenna Site
45-39-55N, 121-07-48W
Antenna C/R 328 m HAMSL
1 kW ERP

KOIN TV Channel 6 Interference
Area = 35.7 sq. km
Population = 980 Persons

KYPL
216C2
46:30:48.0N
120:24:05.0W

54.0 dBu f(50,10)

60.0 dBu f(50,50)

KBOO
214C1

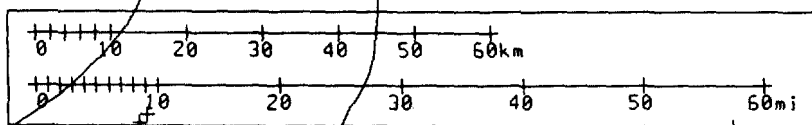
215A

45:39:55.0N
121:07:48.0W

54.0 dBu f(50,10)

60.0 dBu f(50,50)

Scale 1: 1000000.



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1 DEGREE CROSS-MARKS

CERTIFICATE OF SERVICE

I, Pamela R. McKethan, hereby certify that on this 22nd day of July, 1998, copies of the foregoing **REPLY** were hand-delivered or mailed, first-class, postage prepaid, to the following:

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